

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-1324

September Term, 2011

FILED ON: OCTOBER 21, 2011

UNITED STATES POSTAL SERVICE,
PETITIONER

v.

POSTAL REGULATORY COMMISSION,
RESPONDENT

NATIONAL POSTAL POLICY COUNCIL,
INTERVENOR FOR PETITIONER

Petition for Review of an Order of the
Postal Regulatory Commission

Before: SENTELLE, *Chief Judge*, GRIFFITH, *Circuit Judge*, and SILBERMAN, *Senior
Circuit Judge*

J U D G M E N T

This case was considered on the record from the Postal Regulatory Commission and the briefs and arguments of the parties. The Court has accorded the issues full consideration and has determined that they do not warrant a published opinion. See D.C. CIR. R. 36(d). It is

ORDERED AND ADJUDGED that the petition for review is dismissed.

The United States Postal Service (“USPS”) petitions for review of the Postal Regulatory Commission’s (“PRC”) Order No. 536, wherein the PRC adopted an analytical framework for calculating workshare discounts under a statutory cap created in the Postal Accountability and Enhancement Act, Pub. L. No. 109-435, 120 Stat. 3198 (2006), which, among other things, mandates a cap on workshare discounts, which are given to mailers for performing various tasks that allow the Postal Service to reduce costs. The USPS seeks to set aside the order on three bases: (1) that the PRC exceeded its statutory authority and acted unreasonably in treating different “products” as workshared variants of each other; (2) even if the PRC did not exceed its statutory authority, its specific determinations were arbitrary and capricious; and (3) the determination that these discounts should include prerequisite work necessary to qualify for the discount exceeded the PRC’s statutory authority.

We determine the petition to be unripe. The PRC has not yet adopted a single subset of Single-Piece First-Class Mail to serve as the benchmark for determining the workshare discount, see PRC Order No. 536, at 8, and a rulemaking is currently underway to make that determination. Under the prudential doctrine of ripeness, we conclude that the court “would benefit from postponing review until the policy in question has sufficiently ‘crystallized’ by taking on a more definite form.” *Cronin v. FAA*, 73 F.3d 1126, 1131 (D.C. Cir. 1996).

The petition for review is dismissed.

Pursuant to Rule 36 of this Court, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing *en banc*. See FED. R. APP. P. 41(b); D.C. CIR. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Jennifer M. Clark
Deputy Clerk